



August 19, 2016

Sent Via Email

Eli Reisner
Capital Improvements Project Manager
City of Flagstaff
211 W. Aspen Avenue
Flagstaff, AZ 86001

Re: **RR&SS BUNDLE 2 (BEAVER/DALE) ("PROJECT")**
DESIGN PHASE SERVICES NARRATIVE & FEE PROPOSAL ("PROPOSAL")

Mr. Reisner,

Eagle Mountain Construction (EMC) is pleased to provide this Proposal for the above Project. The Team met on 7/18/16 & 7/22/16 to define the Project's initial goals, expectations and design phase requirements.

EMC offers to provide the CMAR Design Phase Services defined herein for **\$69,147.50** with a \$7,000.00 Owners contingency, for a Total Contract Amount of **\$76,147.50**.

The following is a narrative of the scopes of work and deliverables as assumed by EMC.

1.1 - PROJECT KICK-OFF MEETINGS - TWO (2) MEETINGS IF NEEDED

EMC to participate in initial Project Kick-off and Scoping Meeting(s) with the City of Flagstaff (City) and its various departments, WLB, and stakeholders such as NAIPTA, FUSD, ADOT, FDBA, FMC, and first responders. The City will run the meeting, and EMC will provide input as required. Due to the seemingly high number of stakeholders, EMC has budgeted time for two meetings.

1.2 - CMAR DESIGN DEVELOPMENT SERVICES

EMC to participate in twelve (12) Project bi-weekly meetings to provide general design review, VE analysis, constructability reviews, design schedule analysis, phasing options, and to provide a Project Execution Plan. The PEP will address traffic control, construction sequencing, access plans for business and residents, SWPPP analysis, and strategies to minimize pressure to the project stakeholders referenced above. Relevant information from the public outreach meetings will be incorporated into the PEP. The PEP will be an evolving plan, modified as needed. Design development reviews will be completed by EMC at document stages of 30%, 60%, 90%, (Final 1). EMC has also included anticipated hours for "homework" type tasks such as ADOT permitting and franchise utility research. Lastly, EMC will participate in a Design Team Walkthrough Meeting.

1.3 - PUBLIC OUTREACH MEETINGS - TWO (2) MEETINGS ANTICIPATED

EMC to participate in two public outreach meetings - one at 60% design, led by the City; and one Pre-Construction led by EMC. These outreach meetings will be in a public forum format, including a presentation and QA session. The purpose of the first outreach meeting is to provide the public with general Project knowledge and information, while allowing for feedback from vested parties. The Pre-Construction meeting will be similar to the first in format, but more detailed with regards to schedule, phasing, and access restrictions.



1.4 - SUBSURFACE UTILITY INVESTIGATION

EMC has included the attached proposal from Cardno, Inc. for underground utility exploration and mapping, to assist WLB and to provide EMC with as much information as possible on existing utilities. EMC has agreed with the City and Cardno on \$13,125.00 for up to 25 potholes. EMC will coordinate with WLB and Cardno on the location of the potholes to be provided. EMC will assist and coordinate with franchise utilities as needed.

1.5 - SCHEDULE DEVELOPMENT

EMC will develop and maintain an overall CMAR Project Schedule identifying both design and construction phase milestones. A detailed Construction Phase Schedule will be developed at the 60% stage, and refined as additional information is made available from the 90% (Final 1) documents.

Current target milestone dates include: EMC's comprehensive GMP proposal for City review and approval April 12th, 2017; design complete - May 3rd, 2017; City staff approves Final GMP Proposal May 2nd, 2017; Council GMP approval - June 6, 2017; and construction completion - August 2018.

1.6 - COST BUDGETING

At the 30% drawing stage EMC will generate a detailed Schedule of Values (SOV), populated with historical cost data. At 60% EMC will incorporate initial supplier and subcontractor estimates to generate a more reliable SOV for review and discussion with the COF. At 90% EMC will provide a budget with finalized quantities, and approved suppliers and subcontractors.

1.7 - SUBCONTRACTOR AND SUPPLIER PROCUREMENT

At the 60% stage EMC will solicit subcontractor and supplier interest, and present an initial approved list for discussion with the City. EMC will then distribute contract documents to the approved list and gather proposals for review and analysis. EMC will develop a matrix to compare and contrast proposals, providing Best Value Analysis ranking. EMC will make recommendations for review and approval by the City.

1.8 - GMP DEVELOPMENT AND PROPOSAL

Upon completion of 100% (Final 2) documents, EMC will generate a comprehensive GMP Proposal for review and approval. This proposal will include the following:

- Project Description
- Clarifications, Assumptions & Exclusions List
- GMP Summary
- General Conditions Expenses
- Insurance and Bond Rates
- Schedule of Values
- Subcontractor and Supplier List
- Project Master Schedule & Phasing Plan

The services described herein are proposed on a Not to Exceed (NTE) time and material basis, where expenses and hours will be tracked, documented, and billed against the Design Phase Services Agreement. Labor classifications and rates are listed on the CMAR Design Phase Fee Proposal.

Thank you for your consideration, and do not hesitate to contact me with any questions.

Eagle Mountain Construction

Jason Woods
Project Manager



3100 North Caden Court
Flagstaff, Arizona 86004

Mass Earthwork • Utilities • Concrete • Paving
AZROC # 231544 231545 • EMC is a dba of KEAR Civil Corp.

928-526-2587
www.emcaz.com

CMAR Design Phase Fee Proposal

To: Eli Reisner, City of Flagstaff
Project: RR&SS Bundle 2 - Beaver/Dale
Date: 8/19/2016
Rev #: _____

#	ITEM DESCRIPTION	Project Director	Project Manager	Superintendent	Estimator	Scheduler	Direct Hrs.	Direct Labor Total	Allowances Fee 10.0%	TOTAL
		Hourly Rate \$ 95.00	\$ 85.00	\$ 65.00	\$ 75.00	\$ 55.00				
1.1 - Project Kick-Off Meetings										
1.1.1	Kick-Off Meeting #1	2.0	4.0	4.0			10.0	\$ 790.00	\$ -	\$ 790.00
1.1.2	Kick-Off Meeting #2	2.0	4.0	4.0			10.0	\$ 790.00	\$ -	\$ 790.00
	SUBTOTAL:	4.0	8.0	8.0	0.0	0.0	20.0	\$ 1,580.00	\$ -	\$ 1,580.00
1.2 - CMAR Design Development Services										
1.2.1	Bi-Weekly Design Meetings	12.0	24.0	12.0			48.0	\$ 3,960.00	\$ -	\$ 3,960.00
1.2.2	Design Team Walkthrough Meeting	4.0	4.0	4.0			12.0	\$ 980.00	\$ -	\$ 980.00
1.2.3	Project Execution Plan	1.0	16.0	2.0			19.0	\$ 1,585.00	\$ -	\$ 1,585.00
1.2.4	Homework & Research		8.0	4.0			12.0	\$ 940.00	\$ -	\$ 940.00
	SUBTOTAL:	17.0	52.0	22.0	0.0	0.0	91.0	\$ 7,465.00	\$ -	\$ 7,465.00
1.3 Public Outreach Meetings										
1.3.1	Design Phase Outreach Mtg	1.0	4.0	2.0			7.0	\$ 565.00	\$ -	\$ 565.00
1.3.2	Pre-Con Outreach Mtg	1.0	8.0	2.0			11.0	\$ 905.00	\$ -	\$ 905.00
	SUBTOTAL:	2.0	12.0	4.0	0.0	0.0	18.0	\$ 1,470.00	\$ -	\$ 1,470.00
1.4 - Subsurface Investigation										
1.4.1	Potholing \ Allowance		2.0	8.0			10.0	\$ 690.00	\$ -	\$ 690.00
1.4.2	Franchise Utility Coordination		2.0	8.0			10.0	\$ 690.00	\$ -	\$ 690.00
1.4.3	Subsurface Utility Engineering by Cardno							\$ 42,575.00	\$ 4,257.50	\$ 46,832.50
	SUBTOTAL:	0.0	4.0	16.0	0.0	0.0	20.0	\$ 43,955.00	\$ 4,257.50	\$ 48,212.50
1.5 - Schedule Development										
1.5.1	CMAR Project Schedule		2.0			2.0	4.0	\$ 280.00	\$ -	\$ 280.00
1.5.2	60% Construction Phase CPM		2.0	1.0	1.0	4.0	8.0	\$ 530.00	\$ -	\$ 530.00
1.5.3	90% Construction Phase CPM		2.0	1.0	1.0	2.0	6.0	\$ 420.00	\$ -	\$ 420.00
	SUBTOTAL:	0.0	6.0	2.0	2.0	8.0	18.0	\$ 1,230.00	\$ -	\$ 1,230.00
1.6 - Cost Budgeting										
1.6.1	30% SOV & Budget		2.0		32.0		34.0	\$ 2,570.00	\$ -	\$ 2,570.00
1.6.2	60% Budget		2.0		24.0		26.0	\$ 1,970.00	\$ -	\$ 1,970.00
1.6.3	90% Budget	1.0	2.0		16.0		19.0	\$ 1,465.00	\$ -	\$ 1,465.00
	SUBTOTAL:	1.0	6.0	0.0	72.0	0.0	79.0	\$ 6,005.00	\$ -	\$ 6,005.00
1.7 - Subcontractor & Supplier Procurement										
1.7.1	Sub & Supplier Scoping		4.0		3.0		7.0	\$ 565.00	\$ -	\$ 565.00
1.7.2	Bid Solicitation		4.0		3.0		7.0	\$ 565.00	\$ -	\$ 565.00
1.7.3	Bid Analysis & Recommendation	1.0	4.0		3.0		8.0	\$ 660.00	\$ -	\$ 660.00
	SUBTOTAL:	1.0	12.0	0.0	9.0	0.0	22.0	\$ 1,790.00	\$ -	\$ 1,790.00
1.8 - GMP Development										
1.8.1	GMP Development	2.0	6.0		4.0		12.0	\$ 1,000.00	\$ -	\$ 1,000.00
1.8.2	Final Schedule & Phasing Plan	1.0	2.0	2.0			5.0	\$ 395.00	\$ -	\$ 395.00
	SUBTOTAL:	3.0	8.0	2.0	4.0	0.0	17.0	\$ 1,395.00	\$ -	\$ 1,395.00
1.9 - Owners Contingency										
1.9.1	Owners Contingency									\$7,000.00
	TOTALS:	28.0	108.0	54.0	87.0	8.0	285.0	\$ 64,890.00	\$ 4,257.50	\$ 76,147.50



August 21, 2016

Jason Woods
Project Manager
Eagle Mountain Construction Co.
3100 N. Caden Ct.
Flagstaff, AZ 86004

Cardno, Inc.
Robert Ramsey, PE, LEED AP
Phone 602.320.8121
Email
robert.e.ramsey@cardno.com

www.Cardno.com

Re: RR&SS Bundle #2 (Beaver/Dale)
N. Beaver St. - W. Columbus Ave. to W. Birch Ave. and Dale Ave. - N. Humphreys St. to Agassiz St.
Flagstaff, Arizona
Proposal for Subsurface Utility Engineering Services – ASCE 38-02

Dear Mr. Woods:

Cardno, Inc. is pleased to submit this proposal to provide professional Subsurface Utility Engineering services for the above referenced project to Eagle Mountain Construction Co. (EMC). The scope of work and fee structure are as follows:

SCOPE OF WORK

Project Limits

The project limits for professional Subsurface Utility Engineering services include N. Beaver St. from W. Columbus Ave. to W. Birch Ave. and Dale Ave. from N. Humphreys St. to Agassiz St. Street in Flagstaff, Arizona. The scope will also include 5 additional intersection along the N. Beaver corridor (Cherry, Elm, Fine, Hunt, and Sullivan) and 2 additional intersection along the W. Dale corridor (Leroux, and San Francisco). See Exhibit A for overall project limits, exhibit was provided to Cardno by COF on 8/12/16.

Task 1 Subsurface Utility Engineering (Quality Level B)

Cardno will provide Quality Level 'B' and 'A' subsurface utility engineering services within the project limits as described above for existing Subsurface Utilities in accordance with the Quality Level definitions provided below and requirements of the CI/ASCE 38-02 publication entitled ***“Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data”***.

- **Quality Level 'D' (QLD) Not completed by Cardno:** QLD mapping will be completed by WLB. WLB will provide records research of existing subsurface and overhead utilities within the project limits by contacting each utility owner and obtaining their available facility records. WLB and project team will issue the full records research and field notes to Cardno prior to commencing any field activities. QLD mapping is based on information obtained from record drawings and includes utility type, ownership, size and material composition. WLB will provide one copy of each utility record obtained along with contact list of utility owners.
- **Quality Level 'C' (QLC) Not completed by Cardno:** WLB will provide QLC mapping to Cardno of existing untraceable subsurface utilities by correlating surveyed surface evidence to the QLD utility records to obtain the utility location. QLC mapping includes utility type, ownership, size and material composition based on available record information (this includes but not limited to: sanitary sewer, all utility structures, power poles, overhead utility mapping, storm drain systems, etc.). WLB and project team will provide a CAD file with all QLC and QLD mapping to Cardno prior to completing Cardno's field operations.

- **Quality Level 'B' (QLB):** Inclusive to the WLB QLD and QLC effort. Cardno will provide QLB mapping of existing traceable (metallic or nonmetallic buried with trace wire) subsurface utilities utilizing a variety of geophysical locating equipment to detect, verify and designate the location of subsurface utilities from above ground. Once designated, the utilities are marked using appropriate APWA colors and surveyed and mapped into a digitized CAD file compatible with the project design files. QLB utility mapping includes utility type, ownership, size and material composition of subsurface utilities. In addition, QLB utility mapping includes the location and identification of surface evidence of both traceable and untraceable utilities.

QLB utility designation and mapping includes major laterals and commercial service lines only unless otherwise noted below. It excludes landscape irrigation systems, traffic signal loop detection devices and underground storage tanks or septic systems. Water lines, force mains, and other non tonable utilities may be able to be located using ground penetrating radar and will be marked as Quality Level B in these areas. When the ground penetrating radar is not effective, these utilities will be marked Quality Level D or Test Holes may be performed to determine the precise location for design.

The degree of success of a GPR investigation is based entirely on the composition of the soils and the depth and scale of subsurface targets. Electrically soils, such as quartz sands, typically allow for the study of phenomena to depths greater than 15 feet. However, electrically conductive soils, such as clay, moist silt or saline soils, typically preclude the investigation of targets deeper than 3-6 feet. A determination of a maximum attainable depth of investigation requires on- resistive site calibration of the GPR equipment. Subsequently, due to the unknown susceptibility of specific site soils to the passage of radar energy, conclusive results cannot be guaranteed from ground penetrating radar.

Included in this task: residential water and sewer services (total of 60 services are estimated per COF document for each utility, if a services is not able to be designated to QLB it will be noted on the final deliverable as QLD, this task also assumes that Cardno can gain access to property to complete the investigation to achieve QLB mapping), dry utilities, water main (metallic or nonmetallic buried with trace wire, lines are not marked QLB they will be mapped by WLB during QLD mapping stage), 2 sections of storm drain (at Dale and Agassiz and Beaver and Birch all other areas will be mapped QLC and completed by WLB), full corridor utility sweeps (unknowns), electronic depths will be recorded for all QLB mapping and provided in an exhibit format as well as in CAD. All QLC and QLD mapping will be completed by WLB, Cardno will review records and determine if any additional research is necessary.

Note: During the sewer services investigation, the outcomes of the investigation will depend on locating sewer cleanouts for individual residences or GPR success in areas of need. Sondes will be utilized to snake and map sewer laterals as needed, this process will require protective and clean-up materials due to blood borne pathogens (protective disposable gloves, face masks, disinfectant spray and wipes). Cardno will utilize its technologies to designate the said services, but in a case where GPR does not work or individual residence cleanouts are missing, the laterals will be mapped QLD by WLB based on past records.

EMC will provide Cardno with the topographic base mapping, QLD & QLC mapping from WLB, CAD standards and conventions, existing right-of-way, monument lines, and the horizontal and vertical survey control for the project files.

Task 2 Subsurface Utility Engineering – Test Holes (Quality Level A)

- **Quality Level 'A' (QLA):** Cardno will provide up to 25 vacuum excavation test holes for the project, on existing subsurface utilities requested by the team for the City of Flagstaff. Additional test holes will be provided as needed and as requested by the team for the COF. If additional test holes are requested (in excess of 25), those holes will be completed under an additional work request to this contract for an additional fee based on the unit rates provided. The test hole locations will be identified during the development of the plans. The utility data obtained through our standard procedure includes the depth, horizontal and vertical location tied to project datum via survey, size and material composition of the utility exposed. The test hole procedure for this project includes backfill of excavated test holes using slurry, 12" x 12" pavement restoration using "Perma-Patch" brand permanent asphalt cold patch for test holes excavated in existing pavement, and 12" x 12" concrete restoration of test holes excavated in concrete sidewalks using bagged pre-mixed concrete. Prior to beginning excavation, Cardno will request a test hole list provided by WLB identifying the hole number, and the type of utility to be

located along with 11" x 17" plan sheets displaying background topography, existing utilities, and hole locations clearly marked and annotated with the corresponding test hole number.

DELIVERABLES

For the Quality Level B Mapping Cardno will provide QLB utility mapping in an ASCE 38-02 plan set sealed (pdf) by a Registered Professional Engineer as well as provide the mapping in electronic Civil 3D format. Pertinent QLA utility test hole data will be presented in scanned electronic format on our standard "Test Hole Data Summary" and individual "Test Hole Data Report" forms sealed by an Arizona Registered Professional (licensed with the AZ Board of Technical Registration) that includes the depth, horizontal coordinates, vertical elevation, size, and material composition of the utility line exposed at each test hole.

SCHEDULE

Cardno will work closely with the project team to provide deliverables in a timeframe consistent with the overall project schedule. For scheduling purposes of the QLB utility mapping, please allow 1 week for Utility Records Research/coordination with WLB on Quality Level D information, four weeks of utility designating and field work, and 8 days for deliverable preparation. For the QLA test holes, a set schedule will be defined if the project team is selected to execute test holes for the project (need quantity and location to complete full schedule).

ESTIMATED FEE

Cardno proposes compensation for the Quality Level B Subsurface Utility Engineering Services on a lump sum basis. In addition, Cardno proposes compensation for the Quality Level A Subsurface Utility Engineering services and reimbursable expenses on a time/unit rate (for QLA test holes \$525 per hole) and materials not to exceed the agreed upon amount unless additional holes are requested as outline in task 2.

Task 1 Quality Level B Subsurface Utility Designating

Subsurface Utility designating Quality Level B Utility Mapping Services	\$18,950.00
Designating Quality Level B Water and Sewer Laterals	\$ 3,500.00
Total: Quality level B Mapping	\$22,450.00

Task 2 Quality Level 'A' Utility Locating (test hole, up to 25 holes)

Test hole (\$525/hole up to 25 holes)	\$13,125.00
---------------------------------------	--------------------

Reimbursable Expenses

Traffic Plans, Traffic Control, Slurry Backfill, police printing (Estimate Invoiced at Cost + 10%)	\$7,000.00
City of Flagstaff Right of Way Permit will be supplied by the City account as direct by the City.	

Cardno will not exceed the estimated fee without prior authorization from Client. **An invoice will be prepared upon completion for the actual work completed up to the estimated budget amount.** We appreciate this opportunity to provide professional Subsurface Utility Engineering services for this project. Should you have any questions or require additional information, please do not hesitate to call.

This Agreement and the attached Terms and Conditions constitute the complete agreement between Cardno and Client with respect to the scope of services hereunder.

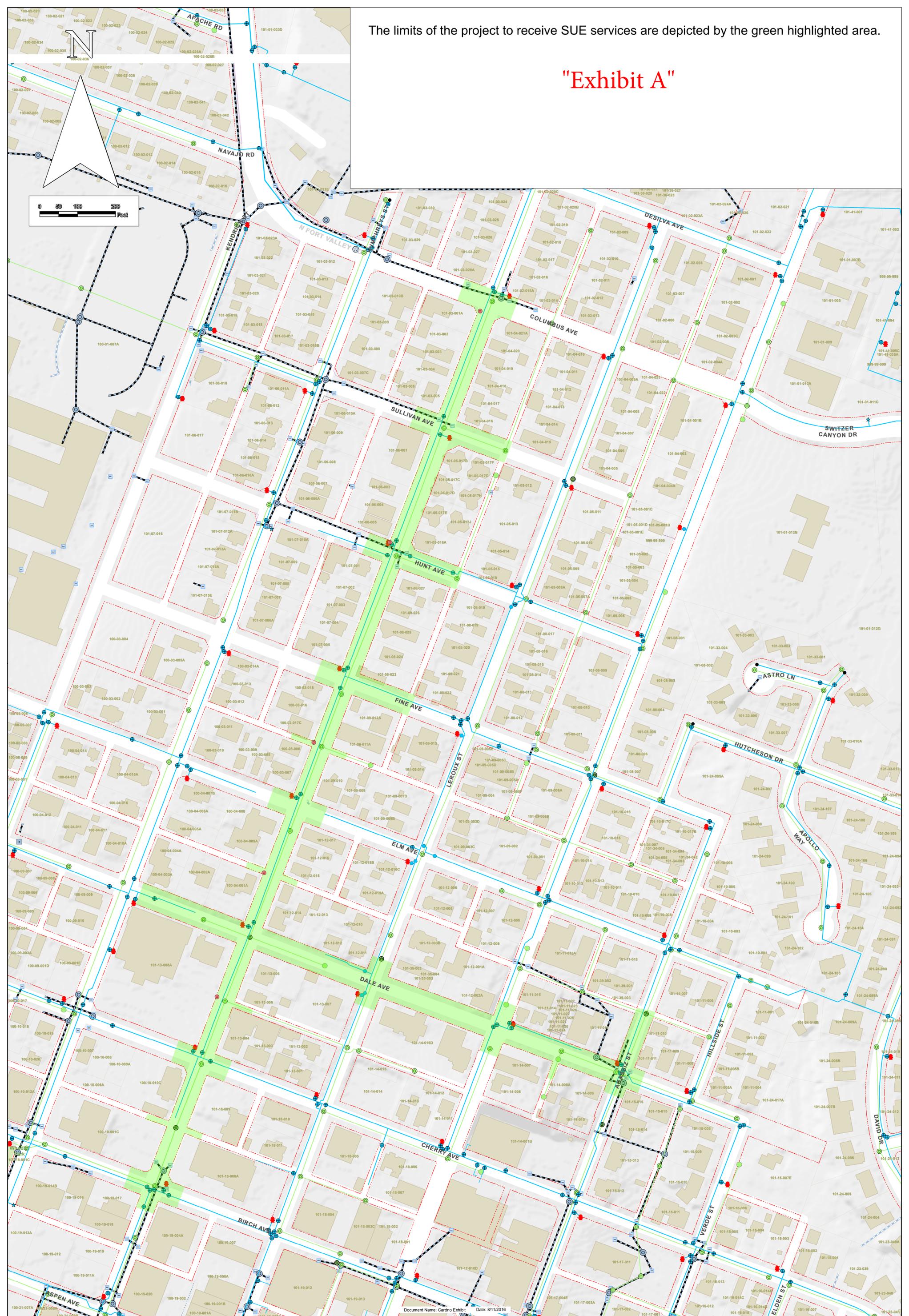
Sincerely,



Robert Ramsey, P.E, LEED AP
Southwest Regional Manager

The limits of the project to receive SUE services are depicted by the green highlighted area.

"Exhibit A"



Document Name: Cardno Exhibit Date: 8/11/2016

AGREEMENT

This Agreement sets forth the following terms and conditions for retention of **Cardno, Inc.** ("**Cardno**") to provide consulting services to **Eagle Mountain Construction Co.** (hereinafter referred to as "**CLIENT**") in connection with the subject project. This Agreement consists of the following identified subparts, all of which are attached hereto and by this reference incorporated herein: ***SCOPE OF SERVICES, FEE SCHEDULE, and GENERAL CONDITIONS.*** The basis of Cardno's retention is described in the attached SCOPE OF SERVICES, COMPENSATION, and GENERAL CONDITIONS. Client acknowledges they have read and agree to the Scope of Services, Fee Schedule, and General Conditions as provided in the General Conditions. Any requested services which are in addition to the attached Scope of Services will be invoiced according to Cardno's standard schedule of rates or included in a contract addendum.

THIS IS A LEGALLY BINDING AGREEMENT APPROVED AND AGREED TO:

Approved for **Eagle Mountain Construction Co.**

Approved for **Cardno, Inc.**

Signed: _____

Signed: _____

Name: _____

Name: Robert Ramsey, PE

Title: _____

Title: Southwest Regional Manager

Date: _____

Date: _____

Cardno shall perform the services proposed for the stated fee in accordance with these terms and conditions:

- 1) **Access To Site (if applicable):** Upon execution of this Agreement, the Client represents that they have secured legal rights to access the property and authorizes Cardno staff to access the site for activities necessary for the performance of the services.
- 2) **Payment:** Invoices for Cardno's services shall be submitted on a monthly basis. Invoices shall be payable within thirty (30) days after the invoice date. In the event that the Client disputes any portion of an invoice, client shall notify Cardno of such disputed items within ten (10) days of invoice date. Retainers/deposits shall be credited on the final invoice. Failure to make any payment when due is a material breach of this Agreement and will entitle Cardno, at its option, to suspend or terminate this Agreement and the provision of the Services. Interest will accrue on accounts overdue by 30 days at the lesser of 1.5 percent per month (18 percent per annum) or the maximum legal rate of interest allowable. In the event any invoice has not been paid in full within ninety (90) days of the invoice date, Cardno shall have the right to immediately suspend all or any portion of the Services hereunder indefinitely pending payment in full of such invoice(s).
- 3) **Indemnification:** Cardno and Client shall indemnify and hold harmless each other from and against damages, liabilities, costs and expenses, including but not limited to reimbursement of reasonable attorney fees arising out of damages or injuries to persons or property to the extent caused by the negligence, gross negligence or willful misconduct by the other party or anyone acting under its direction or control or on its behalf in the course of its performance under this Agreement; provided that each party's aforesaid indemnity agreement shall not be applicable to any liability based upon willful misconduct or negligence of the other party. In no event shall either party be responsible for any form of consequential damages, including, but not limited to loss of sales, loss of profits, and attorney fees thereon. For purposes of this Paragraph, the duty to indemnify does not include the duty to pay for or to provide an up-front defense against unproven claims or allegations. Where any claim results from the joint negligence, gross negligence or willful misconduct by Client and Cardno, the amount of such damage for which Client or Cardno is liable as indemnitor under this Paragraph shall equal the proportionate part that the amount of such claim attributable to such indemnitor's negligence, gross negligence or willful misconduct bears to the amount of the total claim attributable to the joint negligence, gross negligence or willful misconduct at issue.
- 4) **Limitation of Liabilities:** Notwithstanding any other provision in this Agreement, the Client agrees to strictly limit Cardno's liability under this Agreement or arising from the performance or non-performance of the Services under any theory of law, including but not limited to claims for negligence, negligent misrepresentation and breach of contract, to the lesser of the fees paid to Cardno for the Services or maximum of insurance provided. No claim may be brought against Cardno in contract or tort more than two (2) years after the cause of action arose. Any claim, suit, demand or action brought under this Agreement shall be directed and/or asserted only against Cardno and not against any of Cardno's employees, shareholders, officers or directors. Cardno's liability with respect to any claims arising out of this Agreement shall be limited as provided herein to direct damages arising out of the performance of the Services and Cardno shall not be held responsible or liable whatsoever for any consequential damages, injury or damage incurred by the actions or inactions of the Client, including but not limited to claims for loss of use, loss of profits and loss of markets.
- 5) **Termination:** Subject to Paragraph 2, this Agreement will continue in effect until terminated by either party upon thirty (30) days written notice to the other party. In the event of any termination, Cardno shall be paid for all services rendered and reimbursables incurred through the date of notice of termination. In the event of termination, the Client shall pay all additional costs reasonably related to termination of the project and a proportionate amount of the consideration hereunder commensurate with the portion of the project accomplished.
- 6) **Force Majeure:** Any suspension, temporary or permanent, in the performance of this Agreement caused by any of the following events and without fault or negligence on the part of the defaulting party shall not constitute a breach of contract: labor strikes, riots, war, acts of governmental authorities, unusually severe weather conditions or other natural catastrophic events, or any other similar event beyond the reasonable control or contemplation of either party.
- 7) **Assignment:** Neither party to this Agreement shall, without the prior written consent, of the other party, which shall not be unreasonably withheld, assign the benefit or in any way transfer any claim or obligation under this Agreement or any part hereof. This Agreement shall inure to the benefit of and be binding upon the parties hereto, and except as otherwise provided herein, upon their executors, administrators, successors, and assigns.
- 8) **Ownership of Documents:** All report documents produced by Cardno under this Agreement shall be made available to the Client upon receipt of full payment for services rendered. Cardno shall retain ownership of all field notes, computer files and project files used to produce the work products and may make copies of all work products.
- 9) **Notices:** Any notices or written statements hereunder shall be deemed to have been given when mailed by certified or registered mail or via email, with receipt of reply, to the party entitled thereto at its address noted at the top of this Agreement or at such other latest address as it may designate in writing to the other party for this purpose.
- 10) **Non-Solicitation:** Neither party shall knowingly solicit, recruit, hire or otherwise employ or retain the employees of the other working under this Agreement during the term of this Agreement and for one (1) year following the termination or expiration of this Agreement without the prior written consent of the other party.
- 11) **Waiver:** Failure by one party to notify the other party of a breach of any provision of this Agreement shall not constitute a waiver of any continuing breach. Failure by one party to enforce any of its rights under this Agreement shall not constitute a waiver of those rights. The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or any other provision hereof.
- 12) **Governing Law:** The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be interpreted and governed by the laws of the place of the project.
- 13) **Legal Construction:** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof. This Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.
- 14) **Entire Agreement:** This Agreement includes Cardno's proposed scope and budget and these terms and conditions. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties relating to the subject matter of this Agreement and is the entire understanding and agreement related thereto. This Agreement may be amended by mutual consent of the parties in writing to be attached hereto and incorporated herein, executed by Cardno's and the Client's respective representatives.